Applicants provisionally elect Group 2, claim 3, for prosecution purposes, with traverse. Applicants hereby conditionally withdraw claims 1-2 and 4-24 from prosecution, without prejudice, and request reconsideration of the restriction requirement.

Applicants traverse the restriction requirement based on the following grounds. It is respectfully submitted that the restriction requirement practice was established to promote efficiency of prosecution in the United States Patent Office. All of the Groups of claims are classified in class 424 and moreover all relate to biologically active moieties and methods of providing the biologically active moieties by administering genetically modified cells. The only distinction between the Groups of claims are the cells that are administered. Since there is a great amount of cross-classification in this class, it is respectfully submitted that all of the claims should be prosecuted in a single application. Accordingly, it is entirely reasonable, and would not present an undue burden upon the Examiner, for the claims of all of the groups to be maintained in a single application. It is respectfully submitted that prosecution of all of these groups of claims in a single application would be efficient, thereby promoting the grounds for the establishment of the restriction requirement practice. Hence, it is respectfully submitted that restriction should not be required and that Applicants have traversed the restriction requirement. However, as stated above, Applicants have provisionally elected the claim of Group 2, directed towards claim 3, without prejudice. Additionally, Applicants provisionally withdraw claims 1-2 and 4-24, without prejudice, pending reconsideration of the restriction requirement.

Applicant is also required under 35 U.S.C. § 121, to elect a single disclosed species for prosecution with regard to claims 12-16, 20, 22, and 24. Applicant must elect a biological active moiety from the species recited in the specification and claims, i.e., insulin, factor II, factor VII, factor VIII, factor IX, factor X, vasopressin, adenosine deaminase, glucocerebrosidase, human growth hormone, erythropoietin, calcitonin, leptin, interferon α, interferon β, granulocyte-macrophage colony stimulating factor, G-CSF, gangliosides, antibodies, neurotrophins, neurotrophic factors, axonal growth stimulators, and neurotransmitters. It is also noted that the claims also recite interleukins and cytokines, however, these are considered to be genuses represented by at least the species human growth hormone, erythropoietin, macrophage colony stimulating factor, and G-CSF. Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 7-10, 12, 17, 20, 21 and 22 are generic. Applicant elects neurotrophins, without traverse.

The present application is now in condition for allowance, which allowance is respectfully solicited.

The Commissioner is authorized to charge any fee or credit any overpayment in connection with this communication to our Deposit Account No. 11-1449.

Respectfully submitted,

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Date: November 6, 2003

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Marie M. DeWitt